

SENATE BILL 1179

By Hensley

AN ACT to amend Tennessee Code Annotated, Title 5,
Chapter 1, Part 1; Title 6, Chapter 54; Title 10,
Chapter 7 and Title 12, relative to public records.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 5, Chapter 1, Part 1, is amended by
adding the following as a new section:

(a) Except as provided in this section, any contract or agreement entered into by
a county that obligates public funds shall, together with all supporting records and
documentation, be considered a public record and open for public inspection as of the
date such contract or agreement is entered into.

(b)

(1) Notwithstanding the open records law compiled in title 10, chapter 7,
part 5, any record, documentary materials, or other information, including
proprietary information, received, produced, or maintained by a county shall be
considered confidential and not open to public inspection if the chief executive
officer of the county, with the affirmative agreement of the county attorney,
determines that a document or information is of such a sensitive nature that its
disclosure or release would seriously harm the ability of the county to compete
for or execute agreements or contracts for economic or community development.

(2) Records, documentary materials, and other information determined to
be confidential pursuant to subdivision (b)(1) shall be considered confidential for
a period of up to five (5) years from the date such a determination is made. After
such period, the records, documentary materials, and other information made

confidential by this subsection (b) shall become a public record and shall be open for inspection.

(c) This section shall not apply to trade secrets received, maintained, or produced by a county. All such trade secrets shall remain confidential.

(d) This section shall not apply to company documents or records containing marketing information or capital plans that are provided to a county with the understanding that they are now and should remain confidential. Any such document or record shall remain confidential until such time as the provider thereof no longer requires its confidentiality.

(e) As used in this section:

(1) "Capital plans" means plans, feasibility studies, and similar research and information that will contribute to the identification of future business sites and capital investments;

(2) "Marketing information" means marketing studies, marketing analyses, and similar research and information designed to identify potential customers and business relationships;

(3) "Proprietary information" means commercial or financial information that is used either directly or indirectly in the business of any person or company submitting information to a county relating to an opportunity to contract with the county, and that gives such person an advantage or an opportunity to obtain an advantage over competitors who do not know or use such information; and

(4) "Trade secrets" means manufacturing processes, materials used in manufacturing processes, and costs associated with the manufacturing process of a person or company submitting information to a county relating to an opportunity to contract with the county.

SECTION 2. Tennessee Code Annotated, Title 6, Chapter 54, Part 1, is amended by adding the following as a new section:

(a) Except as provided in this section, any contract or agreement entered into by a municipality that obligates public funds shall, together with all supporting records and documentation, be considered a public record and open for public inspection as of the date such contract or agreement is entered into.

(b)

(1) Notwithstanding the open records law compiled in title 10, chapter 7, part 5, any record, documentary materials, or other information, including proprietary information, received, produced, or maintained by a municipality shall be considered confidential and not open for public inspection if the chief executive officer of the municipality, with the affirmative agreement of the city attorney, determines that a document or information is of such a sensitive nature that its disclosure or release would seriously harm the ability of the municipality to compete for or execute agreements or contracts for economic or community development.

(2) Records, documentary materials, and other information determined to be confidential pursuant to subdivision (b)(1) shall be considered confidential for a period of up to five (5) years from the date such a determination is made. After such period, the records, documentary materials, and other information made confidential by this subsection (b) shall become a public record and shall be open for inspection.

(c) This section shall not apply to trade secrets received, maintained, or produced by a municipality. All such trade secrets shall remain confidential.

(d) This section shall not apply to company documents or records containing marketing information or capital plans that are provided to a municipality with the understanding that they are now and should remain confidential. Any such document or

record shall remain confidential until such time as the provider thereof no longer requires its confidentiality.

(e) As used in this section:

(1) "Capital plans" means plans, feasibility studies, and similar research and information that will contribute to the identification of future business sites and capital investments;

(2) "Marketing information" means marketing studies, marketing analyses, and similar research and information designed to identify potential customers and business relationships;

(3) "Proprietary information" means commercial or financial information that is used either directly or indirectly in the business of any person or company submitting information to a municipality relating to an opportunity to contract with the municipality, and that gives such person an advantage or an opportunity to obtain an advantage over competitors who do not know or use such information; and

(4) "Trade secrets" means manufacturing processes, materials used in manufacturing processes, and costs associated with the manufacturing process of a person or company submitting information to a municipality relating to an opportunity to contract with the municipality.

SECTION 3. This act shall take effect upon becoming a law, the public welfare requiring it.